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Paula Robinson, Flathead County MT by NW

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**CERTIFICATE OF RESTATEMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS OF EAGLE BEND NORTH**

Whereas a Declaration of Covenants, Conditions and Restrictions recorded for Eagle Bend North on February 28, 1994 as Document No. 9405912120; and an Amendment thereto recorded on July 21, 2010 as Document No. 201000016505, records of Flathead County, Montana, provide a process for the amendment of said Declaration and prior amendments,

We, the undersigned President and Secretary of the Eagle Bend North Homeowners Association, hereby certify that a vote was duly taken pursuant to the provisions of the above-referenced documents, the Association's Articles of Incorporation, and Bylaws, at a members' annual meeting after sixty (60) days advance written notice containing the full text of all amendments, and members voting in person or by proxy at said meeting on August 4, 2011, or casting their written ballot votes, cast more than two-thirds the ballots of all Lots and Townhouse sites affirmatively in favor of the adoption of the following, attached 2011 Restatement of Declaration of Covenants, Conditions and Restrictions of Eagle Bend North.

DATED this 4<sup>th</sup> day of AUGUST, 2011.

EAGLE BEND NORTH HOMEOWNERS' ASSOCIATION, INC.

Barbara Henry  
Barbara Henry, President

Cheryl Yarbrough  
Cheryl Yarbrough, Secretary

STATE OF MONTANA        )  
                                  :SS  
County of Flathead        )

This instrument was signed and sworn to before me on this 4<sup>th</sup> day of August, 2011, by Barbara Henry and Cheryl Yarbrough as President and Secretary, respectively, of Eagle Bend North Homeowners' Association, Inc.



Edward P. Nolde  
Edward P. Nolde  
Notary Public for the State of Montana  
Residing at Bigfork, Montana  
My commission expires October 21, 2012

Certificate of Amendment – Page 2



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2011 RESTATEMENT OF DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
EAGLE BEND NORTH  
("Declaration" herein)

THIS RESTATEMENT OF DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS is made by the Owners of Lots in EAGLE BEND  
NORTH SUBDIVISION, located in Flathead County, Montana.

WITNESSETH:

That;

RECITALS:

Whereas Eagle Bend North is a platted subdivision in Flathead County, Montana,  
Whereas all real property within the boundaries of Eagle Bend Subdivision, as  
depicted on the Plat, are subject to that Declaration of Covenants, Conditions and  
Restrictions recorded on February 28, 1994 as Document No. 9405912120 in the office of  
the Clerk and Recorder of Flathead County, Montana, and as amended by Document No.  
201000016505 recorded on July 21, 2010, (all of which original Declaration and  
amendment thereto are in places referred to herein as the "Covenants"),

Whereas said Covenants, as amended, provide a means for their amendment,  
Now, pursuant to and in conformance with the Covenants, the undersigned  
Owners enact and adopt this RESTATEMENT OF DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF EAGLE BEND NORTH such that all of the  
real property covered by The Plat shall be subjected to, owned, held, used, sold,  
transferred and conveyed pursuant, according and subject to the following uses,  
restrictions, covenants, conditions and easements, which are for the purpose of  
enhancing and protecting the value and desirability of, and which shall benefit, burden  
and run with the title to said real property and shall be binding on and inure to the  
benefit of all parties having any right, title or interest therein or any part thereof and their  
respective heirs, successors and assigns; and (ii) The Plat is, by this reference, hereby  
incorporated into and made a part of these Covenants.

ARTICLE I  
DEFINITIONS

★ ★ Section 1. "Architectural Committee" shall mean and refer to the committee  
described in Article VII.

Section 2. "Association" shall mean and refer to Eagle Bend North  
Homeowners' Association, a Montana non-profit corporation and its successors and  
assigns.

Section 3. "Private Roads" shall mean and refer to any street, drive or other  
right-of-way as shown on The Plat and which is owned or to be owned by the  
Association.

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Section 4. "Common Area" shall mean all the real property situated in Eagle Bend North (including any improvements thereon) shown and described in The Plat as the Private Roadways, the Recreational Lot and the Green Belt. The Common Area is the property of the Association.

The Common Area does not include Lot 2 which is the common area shown on The Plat adjacent to the Townhouse Lots. Lot 2 is the property of Golden Eagle Townhouse Owners' Association. (Formerly recorded as Eagle Bend North Townhouse Owners Association).

Section 5. "Holder of a Deed of Trust" shall mean and refer to the holder of a first deed of trust, a first trust indenture, a first mortgage or any similar voluntary encumbrance on any Lot or any improvement located on the real property covered by The Plat. The term does not include holders of a deed of trust, etc. in second or subordinate positions.

Section 6. "Lot" shall mean and refer to each tract of land shown on The Plat except for the Common Area and Lots 1 and 2.

Section 7. "Mortgage," "trust indenture," and "deed of trust" shall each mean and include a mortgage, deed of trust, and trust indenture.

Section 8. "Property" or "Properties" shall mean and refer to the real property covered by The Plat, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of title to any Lot or a purchaser's interest therein, but excluding contract sellers whose interest in any Lot or Lots is held as security for the performance of an obligation.

## ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.
- (b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed 60 days for any infraction of the Association's published rules and regulations.

- (c) The right of the Association to dedicate or transfer all or any part of the



Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by its members. However, the Association shall not have the authority to sell or transfer any real property owned by it except to such a public agency, authority, or utility or to another legal entity that has similar purposes to the Association and with the consent of the Flathead County Board of Commissioners or its successor. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by the Owners of two-thirds (2/3) of the Lots within the Properties has been recorded with the Clerk and Recorder of Flathead County, Montana.

Section 2. Dedication of Common Area. The Plat has shown certain areas of land as Private Roads, Recreational Lot and Green Belt ("Common Area" herein) areas are dedicated forever to the sole use of the members of the Association for roadway purposes and recreational purposes respectively.

The above described Common Area shown on The Plat is not dedicated for use by the general public. Access to and use of said Common Area may be controlled and limited by the Association.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Association's Bylaws, his right of use and enjoyment of the Common Area and any recreational facilities located thereon, to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 4. Residential Units Per Lot. No more than one single family residence or townhouse shall be constructed on any Lot.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot (including townhouse Lots) which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Each Owner shall be responsible to notify the Secretary of the Association of any transfer of ownership of any Lot. Every transfer of property shall be subject to a fee payable by the seller and the amount shall be established by the Board of Directors.

Section 2. The Association shall have one class of voting membership.:

### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements,



such assessments to be established and collected as hereinafter provided; and (3) special assessments as provided for below. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments.

(a) Common Area. The assessments levied by the Association shall be used exclusively to promote the recreation, health, convenience, safety, and welfare of the residents in the Properties, for the improvement, maintenance and insurance with respect to the Common Area, and to pay real property taxes on the properties comprising the Common Area.

(b) Lot 2. No assessment shall be made by the Association to the owners of the townhouse Lots (i.e., Lots 3 through 28) with respect to the property described in The Plat as Lot 2. Lot 2 shall, in all respects, be the responsibility of a separate homeowners' association established for the owners of the townhouse Lots.

Section 3. Basis and Maximum of Annual Assessments. The Board of Directors shall fix the annual assessment at an amount not in excess of a 20% increase from the amount of the prior fiscal year. The annual assessment for fiscal year 2011 is three hundred ninety six dollars (\$396.00).

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, maintenance or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such special assessment shall have the approval of two-thirds of the votes of the members present in person or by proxy at an annual meeting or a meeting duly called for such purpose. If such special assessment is not approved, there shall be no such special assessment. Furthermore, neither the same nor a substantially similar special assessment shall be proposed within six months of the meeting at which the special assessment failed.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days or more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding



meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis as determined by the Association's Board of Directors.

Section 7. Annual Assessments: Due Dates. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate, signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum unless the Association's Board of Directors prescribes a rate of interest greater or lesser than 12% per annum, but in no event shall the rate exceed the maximum legal rate of interest. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not impair or otherwise affect the assessment lien. However, any holder of a first mortgage or trust indenture who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust indenture, or by foreclosure of the mortgage or trust indenture, or by deed (or assignment) in lieu of foreclosure, will not be liable for such Lot's unpaid dues or charges which accrue prior to the acquisition of title to such Lot by the holder of the mortgage or trust indenture. Except as provided herein, no sale, foreclosure, or deed or assignment in lieu of foreclosure or transfer of a Lot shall release or relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Townhouse Assessments. The fixing and levying of assessments with respect to Lot 2 by an association or other entity whose members are comprised of the owners of townhouse Lots shall not relieve any Owner of a Townhouse Lot for any assessments levied under this Article. Each owner of a Townhouse Lot shall be a member of the Association, and by acceptance of a deed for said Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to be bound by



the terms of this Declaration and the Articles of Incorporation and Bylaws of Eagle Bend North Homeowners Association.

Section 11. Combination and Division of Lots. Annual and special assessments and voting shall be based on the original plats of the Properties as of December 30, 1993. Lots shall not be subdivided. If a Lot is formed by the combination of two or more Lots, whether informally by use for a single residence or by recorded survey, the resulting Lot or informal combination of Lots shall be subject to the number of annual and special assessments equal to the number of Lots that are combined, and shall have the number of votes in Association matters equal to the number of Lots that are combined.

## ARTICLE V INSURANCE

Section 1. Liability Insurance. Public liability and property damage insurance with respect to the Common Area shall be purchased by the Association's Board and shall be maintained in force at all times. The premium thereof shall be paid out of the Association's funds. The insurance shall be carried in reputable companies authorized to do business in Montana. The minimum amount of coverage shall be \$1,000,000.00 for personal injury to any one person, \$2,000,000.00 for personal injury to any number of persons sustained in one accident or mishap, and \$100,000.00 property damage. The policy shall name the Association, its directors, officers, employees, and agents in the scope of their employment, as insured. This policy shall insure against, but may not be limited to, injury or damage occurring in or on the Common Area.

Section 2. Other Insurance. The Board of Directors of the Association may purchase additional insurance as the Board may determine to be advisable including, but not limited to, directors and officers liability, fidelity bonds, and insurance on Association owned personal property. All premiums therefore shall be paid out of the Association's funds. If the Association has one or more employees, it shall purchase worker's compensation insurance.

Section 3. Owner's Additional Insurance. An Owner shall carry such personal liability and property damage insurance respecting his individual Lot with a minimum \$500,000.00 limit.

## ARTICLE VI HOLDERS OF DEEDS OF TRUST

Each holder of a deed of trust, upon written request by such holder to the Association's Board, shall be entitled to timely written notice of: (1) any proposed amendment of this Declaration effecting a change in (i) the boundaries of any Lot or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Area appurtenant to any Lot or the liability for assessments with respect thereto, (iii) the number of votes in the Association appurtenant to any Lot or, (iv) the purposes or uses to which any Lot or the Common Area are restricted; (2) any condemnation loss or any



casualty loss which affects a material portion of a Lot on which there is a first mortgage or deed of trust held; (3) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first mortgage or deed of trust, where such delinquency has continued for a period of sixty (60) days; (4) any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to Article V.

## ARTICLE VII ARCHITECTURAL CONTROL

Section 1. There shall be a committee for the control of structural and landscaping architecture and design known as the "Architectural Committee", composed of three (3) representatives appointed for a term of one (1) year by the Board of Directors of the Association. Members of the committee may be removed by a majority vote of the Board of Directors of the Association, with or without cause, and the Board of Directors of the Association shall fill all vacancies.

Section 2. The Architectural Committee shall have the authority to promulgate rules pertaining to, but not limited to, the following matters:

- (a) Schedules relating to proposed commencement and completion dates of construction on Lots.
- (b) Time periods during individual days of the week within which construction may commence and when it must cease.
- (c) Restrictions on locations on streets and roadways where vehicles, equipment and materials involved in construction may park or be placed.
- (d) Any other matters which affect the rights of Lot Owners to the quiet enjoyment of their property, taking into account the reasonable needs of Owners of Lots upon which construction is undertaken.

Section 3. Owners are solely responsible for the location of their lot boundaries, corner and other pins and structures. The Association shall have no liability for the accuracy of surveys or plats or the location of corner or other boundary pins or for any Owner's construction across a boundary line or within a setback area or within an easement.

No structures or improvements shall be erected, placed, altered, maintained or permitted to remain upon the properties unless: (i) detailed drawings, plans, specifications, and construction schedules (commencement and completion dates) signed by the proposed occupant of the site or his authorized representative have been submitted to and approved in writing by the Committee; and, (ii) all such construction of structures and improvements is in full compliance with all applicable provisions of the Flathead County Zoning Regulations.

For structures or improvements to be placed on Lots with twenty-five percent (25%) or greater slope, the detailed drawings, plans and specifications shall be accompanied by a written certification by a licensed architect or professional engineer that the hazards inherent in constructing buildings or improvements on Lots with such slope can be adequately mitigated.

Drawings and plans shall include without limitation, the following matters to be determined by said Committee: (i) the placement (on the building or elsewhere on the Lot) of the building's address displayed at a location to assure that such address is clearly visible from the road that provides access thereto; (ii) building height and size; (iii) plot plan showing proposed contouring of grades, parking areas; (iv) plans for all floors, cross-sections and elevations; and (v) footprint or site plan showing location of building on Lot. Specifications shall describe types of construction, materials to be used, exterior finish and color, and water use limiting devices to be installed.

The Committee's approval of such drawings, specifications and schedules shall be based, among other things, on conformity and harmony of external design with neighboring structures, the effect of location and use of improvements on neighboring sites, relation of finished ground elevations of the site being improved to that of neighboring sites, and conformity of the plans and specifications to the purpose and general plan and intent of these covenants.

In the event that the Architectural Committee fails to approve or disapprove such design and location within thirty (30) days after the plans and specifications have been submitted to it, Committee approval will not be required and this Article will be deemed to have been fully complied with.

A fee of up to Five Hundred Dollars (\$500.00) shall be charged by the Architectural Committee to cover its reasonable direct out-of-pocket expenses incurred in making its decision. The hiring of an architect or other expert not a member of the Committee to consult on the proposed construction or improvement is deemed to be such a reasonable expense. Any amount of the fee not used in the review shall be returned to the Owner. The Board of Directors may increase the maximum fee from time to time as it deems appropriate.

Section 4. The Architectural Committee shall have a continuing role in the approval or disapproval of proposed changes from the original design and construction of buildings and improvements, including, without limitation, exterior remodeling, changes or color, exterior lighting, provision for wood storage, exterior clotheslines, recreational equipment, and exterior pet facilities. No such changes or additions will be permitted unless approved in writing by the Architectural Committee, which may, in its discretion, waive the requirement that drawings and specifications be submitted as to such changes.

Section 5. If the Committee, upon its own inspection or upon receiving a complaint, determines that any Owner is in violation of the Committee's rules, or has failed to properly maintain his Lot or any permanent improvement thereon, including

necessary repairs, or has constructed or made any change to any improvement not in conformance with an approved plan, the Committee shall notify the Owner in writing.

Such notice shall contain a statement of the nature of the failure or violation and the steps needed to remedy it. If such remedial steps are not taken within a reasonable time, the Committee, in addition to any enforcement action permitted by Article XII, Section 2 hereof, may notify the Association which may itself, after written notice to the Owner and failure of such Owner to comply, undertake the necessary remedial steps and charge the Owner an assessment for any sums expended by it in doing so. Any such assessment shall be a lien against the Lot so assessed and the personal obligation of the Owner to the same extent as those liens described in Section 1 of Article IV of this Declaration.

## ARTICLE VIII GOLF COURSE

Section 1. The area shown and described on The Plat as Lot 1 shall, forever, be used as a golf course and related purposes and activities. However, the permanent designation of Lot 1 as a Golf Course does not result in any dedication of Lot 1 for use by the general public or confer upon the general public or members of the Association any right or privilege to use, or have access to, said Lot 1 or any portion thereof. The Association (and its successors and assigns) reserves the exclusive right to own, operate, control, administer, regulate and otherwise determine the access to, use of, activities on, and play on Lot 1 according to the rules and regulations adopted in the exercise of its ownership rights.

Section 2. No right, title or interest in, or ownership of, Lot 1 shall pass to the Association.

## ARTICLE IX RESTRICTIVE COVENANTS AS TO USAGE

Section 1. Single Family Occupancy. Each residential unit shall be used only as a single family residence.

Section 2. Vehicles. All vehicles shall be parked in carports, driveways, or designated parking areas and no vehicles, trailers, trucks exceeding one-ton capacity, unsightly, wrecked or inoperable vehicles, school or other buses, chassis, motors, tires, boats, personal watercraft, motor homes, recreational vehicles, including four-wheelers, snowmobiles, motorcycles, camper shells, or other motorized equipment, or transport devices, or construction equipment, airplanes or parts or components of any of the foregoing items or anything else that is required by law to be titled (collectively "vehicle(s)" herein) shall be parked upon, remain in, or encroach upon, in whole or in part, a road, sidewalk, or path right of way, or other Common Area or upon Lots 1 or 2. No vehicle shall be parked or remain on the lot of someone who is not an owner of the vehicle, without the express permission of the lot Owner.



Each occupant shall be responsible to see that visitors and guests utilize the parking areas provided. No outdoor maintenance or repair work shall be performed on vehicles except washing and polishing. Trucks exceeding a capacity of one ton may not be regularly parked or kept on the properties. No vehicles other than conventional automobiles, sport utility vehicles, or pickup trucks with capacity of one ton or less shall be kept or stored on any Lot or Common Area within the properties except on a temporary basis or in a covered garage.

The Association shall have the authority to promulgate safety rules and regulations regulating and restricting the types of vehicles which may be operated on roadways within the Properties, including but not limited to golf carts, motorcycles, motorbikes, and bicycles.

Section 3. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on the properties except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose, and shall be subject to any governmental ordinances or laws. Dogs, cats and other household pets shall be on a hand-held leash at all times when outside an Owner's property. Owners are responsible to clean up after their pets. Pets constituting to be a nuisance may be ordered by the Board to be kept within the residence of the owner or ordered expelled from the Properties.

Section 4. Signs. No signs, billboards or advertising devices of any nature except as may be authorized by the Architectural Committee shall be erected or maintained on any part of the Properties. The Association may erect signs or notices for identification purposes in accordance applicable state and municipal laws or codes.

Section 5. Nuisances. No hazardous, unreasonably offensive or noxious activity shall be carried on upon the Property, nor shall noises be made or anything done thereon which may be or become an unreasonable annoyance or nuisance to the neighborhood.

Section 6. Fences. All fences shall conform to zoning regulations and must be approved before erection by the Architectural Committee.

Section 7. Garbage. Dumpster type garbage containers may be provided at locations specified by the Architectural Committee at the expense of the Lot owners. Owners will be responsible for disposing of their garbage and trash in approved containers. No garbage or trash shall be permitted outside of any structure except in approved containers.

Section 8. Exterior Maintenance. Each owner of a structure shall be responsible to maintain the structure in a manner and appearance consistent with its original design, including painting, repair, landscaping, and the removal of trash and debris. No outside burning will be permitted on the properties except for outdoor barbecues or within a safe and well-designed fireplace or fire pit.

Section 9. Antennas, Poles and Other Structures. No antenna (including but not limited to satellite dish receivers), pole or other similar structure shall be erected on any Lot unless approved by the Architectural Committee.

Section 10. Oil or Mining Operations. No operations of any kind for the purpose of discovering or removing any oil, gas, gravel, or minerals of any kind shall be conducted on any properties covered by these Covenants.

Section 11. Temporary Structures. No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding, shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 12. Drainage Control. Reasonable precaution shall be taken during construction, and thereafter, to prevent soil erosion and drainage problems. All disturbed soil areas shall be revegetated within a reasonable time in such a manner as to minimize soil erosion. Driveways shall be constructed so as not to interfere with drainage and shall include culverts of appropriate size to prevent obstruction of water flow.

Section 13. Trees, Shrubs and Water. The removal of trees, shrubs and other improvements from the properties is prohibited without the express written approval of the Architectural Committee. All landscaping which materially affects the appearance of a Lot must have written approval from the Architectural Committee before the installation of such landscaping is commenced by an Owner. The Owner shall be responsible for the cost of any such landscaping improvements. Water usage limiting devices shall be utilized in accordance with original approved design.

Section 14. Weed Control. Weeds shall be controlled so as to prevent the dissemination of seeds and avoid fire hazards. The Association shall be empowered to dispose of weeds on any Lot at the expense of the Lot Owner if such Lot Owner fails to comply with these provisions after reasonable notice. The expense, if any, incurred by the Association shall be a charge and a continuing lien upon the affected Lot until paid.

## ARTICLE X GRANT/RESERVATION OF EASEMENTS

Section 1. Easements for installation and maintenance of utilities and drainage facilities are reserved on:

- (a) The Common Area; and,
- (b) All property located within five (5) feet of any boundary line; provided, however, on all Lots for which prior approval has been obtained to construct a building to the side boundary of such Lots, the easement area on such Lots shall be within five (5) feet of the front and rear boundary lines and within ten (10) feet of the side boundary line on which such building is not constructed; and,



(c) All property granted as easements or shown on The Plat (or any amendment thereto) to be affected by an easement or easements.

Section 2. The Owner of any Lot for which prior approval has been obtained to construct a building to the side boundary of such Lot shall have an easement over and upon the Lot adjoining said side boundary as is reasonably necessary for the construction and maintenance of said building and an easement of encroachment over said adjoining Lot to the full extent that the roof or any other part of said building shall encroach over the boundary of said adjoining Lot.

Section 3. The easement area of any Lot and all improvements in it shall be maintained continuously by the Owner of the Lot except for those improvements for which a public authority or utility company is reasonable. Planted or paved areas which are disturbed by a utility provider or public authority shall be reasonably restored when the purpose of the disturbance is accomplished.

ARTICLE XI  
AGRICULTURAL COVENANTS

Section 1. Lot owners are advised and acknowledge that agricultural activities are conducted in the immediate vicinity of the properties, which activities may produce odors, noise, and dust and involve the utilization of herbicides and pesticides which can have an effect on such properties.

Section 2. Any authorized representative of any governmental agency shall have the right at any reasonable time to inspect the grounds and garden of any Lot for disease harboring plants, shrubs or trees and, if found, to dispose of same.

Section 3. Each Lot Owner shall control or eliminate, to the extent reasonably possible, any noxious weeds, as designated by state or federal law, growing upon the property.

ARTICLE XII  
GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration., Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Any court finding violation of any covenant shall have in addition to the foregoing remedies, the right to require abatement of the violation, including removal of any structures or improvements, at the expense of the Owner of the Lots or Lots on which the violation occurs.

Further, the County of Flathead is hereby given the right to enforce any or all of the covenants and conditions herein as a party in interest. However, the County of

Flathead shall not be subject to assessment for any costs whatsoever for the operation, maintenance, repairs, taxes or any other costs of any of the Lots or parcels or Common Area within the properties.

The party ultimately prevailing in any such action described in this Article XII Section 1 (as evidenced by a final judgment for which no appeal is taken) shall be entitled to an award of reasonable attorneys' fees and costs incurred in connection with the bringing of or defense of such action.

Section 2. In addition to the means of enforcement of covenants, conditions, restrictions and architectural controls provided in these Covenants, all covenants, conditions, restrictions and architectural controls applicable to Eagle Bend North may be enforced as follows:

(a) The Board of Directors of the Association may impose fines upon Owners for violations. The Board may delegate this authority in part to the Architectural Control Committee for matters within the scope of its authority. The Board shall retain authority to impose fines for all other matters not within the authority of the Architectural Control Committee. As the term "Board" is used in the following subsections, the term shall mean either the Board or the Architectural Control Committee as the case may be.

(b) Prior to the imposition of a fine, the Board or its agent shall give the Owner in question written notice of the violation and intended amount of the fine, and the notice shall provide, as determined by the Board, a period of one to fifteen days' opportunity, after receipt of the notice, to correct the violation to avoid the fine.

(c) If the violation is not corrected within the one to fifteen day period, the Board may, but is not required to, impose a fine, using the procedures set forth below and in the Bylaws or rules promulgated by the Board of Directors.

(d) The Board may impose fines ranging from one hundred dollars (\$100) to one thousand dollars (\$1,000) for violations continuing on or after the expiration of the stated opportunity for remediation. Each separate day of a continuing violation may be considered a separate violation.

(e) The Board of Directors may promulgate a schedule of the maximum fine for each of various violations. The failure of the Board to promulgate such a schedule or the omission of a violation from such a schedule shall not preclude the Board from imposing a fine for violation of some nature that is not scheduled.

(f) The Board of Directors shall promulgate rules of procedure to provide the Owner with a reasonable opportunity to be heard in person, by telecommunication, or by agent by the appropriate Board before a fine is finally assessed. After such hearing or after the deadline for the Owner to request a hearing, the Board may file a notice of lien for the amount of the fine, plus costs of filing, and reasonable attorney's fees and arbitrator's fees, if any, to the extent that the Board has not reduced or rescinded the fine after a hearing or after the deadline for hearing has passed. All fines so imposed

shall be a continuing lien upon the Owner's lot. If the Owner appeals from the Board's notice, no lien shall be filed until the Board hears the appeal.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Term/Amendment/The Plat. (a) The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years.

(b) This Declaration may be amended by a ballot vote of the Owners at an annual meeting or at a special meeting called expressly for the purpose of voting on amendments. The notice of the meeting shall set forth the full language of the proposed amendment and shall be mailed or delivered to Owners at least sixty (60) days prior to the meeting. Ballots may be cast in person, by proxy, or by mail. In order for any amendment to be effective, the votes representing at least two-thirds of the Lots sites must be cast in favor of the amendment.

(c) The amendment(s) shall be effected when a Certificate of Amendment is recorded with the Clerk and Recorder of Flathead County, Montana. The Certificate of Amendment shall be duly signed and sworn to by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures and oaths or affirmations acknowledged before a notary public. The Certificate of Amendment shall set forth in full the amendment adopted and shall certify that, in a vote duly held at a meeting after sixty (60) days advance written notice, pursuant to the provisions of the Association's Articles of Incorporation and Bylaws, the Members casting the votes of two-thirds or more of the lots affirmatively voted for the adoption of the amendment. Neither the ballots nor any other instrument executed by the owners need be recorded.

(d) An amendment of the plat of the Properties recorded in Flathead County, Montana shall not be deemed to be an amendment of this Declaration.

Section 5. Annexation. Additional real property may be annexed to the properties with the consent of two-thirds of the members of the Association.

END

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